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SENATE

REPORT
No. 97-569

AUTHORIZATION OF CERTAIN USDA EMPLOYEES TO CARRY FIREARMS

SEPTEMBER 22 (legislative day, SEPTEMBER 8), 1982.—Ordered to be printed

Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, submitted the following

REPORT

[To accompany H.R. 2035]

The Committee on Agriculture, Nutrition, and Forestry, to which was referred the bill (H.R. 2035) to authorize certain employees of the United States Department of Agriculture charged with the enforcement of animal quarantine laws to carry firearms for self-protection, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

SHORT EXPLANATION

H.R. 2035 would authorize certain Department of Agriculture animal health technicians charged with the enforcement of animal quarantine laws, and whose duty area has a high potential for danger and violence, to carry firearms for self-protection.

BACKGROUND AND NEED FOR LEGISLATION

Animal health technicians of the U.S. Department of Agriculture, commonly known as tick inspectors, make daily patrols of the U.S.-Mexican border to prevent the illegal entry of animals into the United States. The inspectors are authorized, pursuant to section 5 of the Act of July 2, 1962 (21 U.S.C. 134d), to stop and inspect, without a warrant, any person or means of conveyance moving into the United States from a foreign country to determine whether such person or means of conveyance is carrying any animal, carcass, product, or article regulated or subject to disposal under any law or regulation administered by the Secretary of Agriculture for the prevention of the introduction or dissemination of any communicable animal disease.

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Tick inspectors patrol the river border alone, on horseback, and are exposed to smuggling, cattle rustling, and the movement of illegal aliens along the international border. In addition, reports from Federal, State, and local law enforcement agencies indicate that narcotics smuggling occurs in this patrol area. There have been numerous instances of violence in this area, including the shooting of one tick inspector.

Animals, including racehorses, are smuggled across the river from both countries to avoid inspection and payment of customs fees. These actions subject the animals to seizure by the inspector, and could result in a substantial loss to the smuggler. The threat of loss of valuable livestock by the smuggler creates a high level of hostility toward the inspector. By the same token, the "witnessing" by a tick inspector of other suspected illegal activity places the inspector in danger. The frequency of these incidents necessitates providing tick inspectors with firearms for their own protection.

COMMITTEE CONSIDERATION

On September 15, 1982, the Committee met in open session and considered H.R. 2035.

Chairman Helms stated that the bill would authorize designated USDA animal health technicians, commonly known as tick inspectors, to carry firearms while performing their official duties. Chairman Helms explained that tick inspectors patrol the Mexican-American border to prevent the illegal entry of animals into the United States, thus protecting United States livestock from dangerous diseases and parasites.

Chairman Helms further stated the border area is hostile due to the presence of illegal aliens, drug smugglers, and cattle rustlers. Since the personal safety of these tick inspectors is in jeopardy because of this situation, they need the means to protect themselves.

Senator Helms stated that the bill had been passed by the House of Representatives on May 18, 1982. A similar bill (S. 2313) was introduced in the Senate by Senator Bentsen, and the Administration actively supports the bill.

In the presence of a quorum, the Committee agreed by voice vote to report the bill to the Senate with the recommendation that it pass.

SECTION-BY-SECTION ANALYSIS

The provisions of H.R. 2035 would permit any employee of the U.S. Department of Agriculture, who has been designated by the Secretary of Agriculture and the Attorney General of the United States, to carry a firearm and to use the firearm when necessary for self-protection, in accordance with rules and regulations issued by the Secretary and the Attorney General. The firearm may be carried while the employee is engaged in the performance of the employee's official duties in (1) carrying out any law or regulation related to the control, eradication, or prevention of the introduction or dissemination into the United States of any communicable disease of livestock or poultry, or (2) performing any duty related to such disease control, eradication, or prevention, subject to the direction of the Secretary.

ADMINISTRATION VIEWS

In a letter to Chairman Helms, dated April 21, 1982, Secretary of Agriculture John R. Block stated that the Department of Agriculture supports enactment of S. 2313, the companion bill to H.R. 2035. The letter from the Secretary reads as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., April 21, 1982.

Hon. JESSE HELMS,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for a report on S. 2313, a bill "To authorize certain employees of the United States Department of Agriculture charged with the enforcement of animal quarantine laws to carry firearms for self-protection."

The Department of Agriculture recommends that the bill be enacted.

The bill provides that employees of the Department of Agriculture designated by the Secretary of Agriculture and the Attorney General of the United States to: (1) carry out any law or regulation related to the control, eradication, or prevention of the introduction or dissemination of communicable disease of livestock or poultry into the United States; or (2) perform any duty related to such disease control, eradication, or prevention, subject to the direction of the Secretary, may carry a firearm and use a firearm when necessary for self-protection, in accordance with rules and regulations issued by the Secretary of Agriculture and the Attorney General of the United States, while such employees are engaged in the performance of the employees' official duties.

S. 2313 is identical to H.R. 2035 as reported by the Subcommittee on Department Operations, Research, and Foreign Agriculture of the House Agriculture Committee, with amendments recommended by this Department. Enclosed is a copy of our legislative report on H.R. 2035.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN R. BLOCK,
Secretary.

Enclosure.

APRIL 6, 1982.

Hon. E (KIKA) DE LA GARZA,
Chairman, Committee on Agriculture,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for a report on H.R. 2035, a bill "To authorize certain employees of the Department of Agriculture to carry firearms in the performance of their duties."

The Administration generally supports the objectives of H.R. 2035, but has some concerns regarding the scope of the bill as drafted, the

cost required to implement the bill, and the need to insure that any Federal employee authorized to carry firearms be properly selected and trained. Specifically, the Department believes that the safety of its employees must be ensured and therefore concurs that legislation authorizing some of its employees to be armed may be warranted. The Department recommends that any such legislation specify that only employees designated by the Secretary and the Attorney General, whose duty area has a high potential for danger and violence, be authorized to carry firearms and to limit the use of such firearms to situations in which such firearms are necessary for the self-protection of the employee.

As drafted, the bill authorizes any employee of the Department of Agriculture designated by the Secretary of Agriculture to carry out any law or regulation or to perform any function in connection with (A) any Federal or State program or (B) any program of Puerto Rico, Guam, the Virgin Islands of the United States or District of Columbia, for the control, eradication or prevention of the introduction or dissemination of animal diseases, to carry firearms in accordance with rules issued by the Secretary of Agriculture, while in the performance of their official duties. We concur that if this scope of the legislation is retained, the decision to designate certain employees to carry firearms and regulate the carrying of such firearms should be reserved for the Secretary. However, there are numerous different animal health programs administered by the Department's Animal and Plant Health Inspection Service (APHIS). Most APHIS employees who are designated by the Secretary of Agriculture to carry out any law or regulation or to perform any function in connection with any Federal or State program, or any program of Puerto Rico, Guam, the Virgin Islands of the United States, or the District of Columbia, for the control, eradication, or prevention of the introduction or dissemination of animal disease, do not work in dangerous areas. This Department, therefore, sees no need for legislation which would provide that all such employees designated by the Secretary and the Attorney General may carry firearms while engaged in the performance of their official duties. However, we believe it may be appropriate for those APHIS "Tick Inspectors" employees who are confronted daily with criminal activities to carry firearms.

These employees (Animal Health Technicians commonly known as Tick Inspectors) make daily patrols of the United States/Mexico international boundary to prevent the illegal entry of animals into the United States. The narrow area along the Rio Grande River on the Texas/Mexico border is under Federal and State quarantine. It is here that the Tick Inspectors spend most of their working hours. The inspectors are authorized pursuant to section 5 of the Act of July 2, 1962 (21 U.S.C. 134d), to stop and inspect, without a warrant, any person or means of conveyance, moving into the United States from a foreign country, to determine whether such person or means or conveyance is carrying any animal, carcass, product, or article regulated or subject to disposal under any law or regulation administered by the Secretary of Agriculture for prevention of the introduction or dissemination of any communicable animal disease. These Tick Inspectors patrol the river border alone, on horseback, and are exposed

to the ever-present smuggling, cattle rustling and movement of illegal aliens, which occur along the international border. In addition, reports from Federal, State, and local law enforcement agencies indicate that illegal narcotics smuggling occurs in massive proportions. There have been numerous incidences of violence in the area where our Tick Inspectors patrol.

Animals, including racehorses, are smuggled across the river, in both directions, to avoid inspection and payment of customs fees, and for convenience. These actions subject the animals to seizure by the inspector, and could result in a substantial loss to the smuggler. The threat of loss of valuable livestock by the smuggler creates a high level of hostility toward the inspector.

Cattle rustling is a felony violation under Texas law. Often stolen cattle are slaughtered in areas where our "border patrol employees" are present. Several types of weapons are often used to slaughter stolen cattle, thereby, presenting a high risk to these APHIS employees. Yet, current law does not authorize these Tick Inspectors to carry firearms for self-protection.

In accordance with our recommendation we have prepared the enclosed proposed bill. It is limited to Tick Inspectors and authorizes them to carry firearms only for self-protection while performing their assigned animal health activities in accordance with regulations issued by the Secretary of Agriculture.

The costs of enacting either H.R. 2035 or the enclosed proposed bill include the procurement of firearms and ammunition and the costs of properly training Department of Agriculture employees in the use and care of such firearms. We estimate that if Tick Inspectors are authorized to carry firearms, approximately 110 firearms would have to be purchased at a cost of $300 to $400 each. The Department of Agriculture does not have any experience with respect to the costs of training employees in the use and care of firearms. However, we have been informed by the United States Customs Service that customs agents are required to attend a seven week training course at the Federal Law Enforcement Training Center, Glenco, Georgia, prior to being authorized to carry firearms. Further, should any injuries or death result from the use of such firearms, additional costs could be incurred in either defending actions or paying claims brought under the Federal Tort Claims Act.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN R. BLOCK,
Secretary.

Enclosure.

A BILL To authorize certain employees of the United States Department of Agriculture charged with the enforcement of animal quarantine laws to carry firearms for self-protection

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, employees of the United States Department of Agriculture designated by the Secretary of Agriculture and the Attorney General of the United States—

(1) to carry out any law or regulation related to the control, eradication, or prevention of the introduction or dissemination of communicable diseases of livestock or poultry into the United States, or

(2) to perform any duty related to such disease control, eradication, or prevention, subject to the direction of the Secretary,

may carry a firearm and use a firearm when necessary for self-protection, in accordance with rules and regulations issued by the Secretary of Agriculture and the Attorney General of the United States, while such employees are engaged in the performance of the employees' official duties.

COST ESTIMATE

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee estimates that no significant costs will be incurred by the Federal Government as a result of the enactment of this legislation.

The Committee's estimate is in accord with the cost estimate prepared by the Congressional Budget Office.

The cost estimate prepared by the Congressional Budget Office reads as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 17, 1982.

Hon. JESSE A. HELMS,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 2035, a bill to authorize certain employees of the Department of Agriculture to carry firearms in the performance of their duties, as ordered reported by the Senate Committee on Agriculture, Nutrition, and Forestry, September 15, 1982.

Based on this review, it appears that no significant cost will be incurred by the Government as a result of this legislation.

Sincerely,

ALICE M. RIVLIN,
Director.

REGULATORY IMPACT STATEMENT

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact that would be incurred in carrying out H.R. 2035.

The bill is not a regulatory measure in the sense of imposing significant economic responsibilities on private individuals or businesses. The bill gives the Secretary of Agriculture and the Attorney General of the United States the authority to allow certain Department of Agriculture animal health technicians to carry firearms for self-protection while performing their official duties. The Secretary and the Attorney General would issue rules and regulations governing the use of firearms carried by these technicians. There would be no impact on personal privacy through enactment of the bill and only minimal paperwork involved in issuing the rules and regulations and making designations of those authorized to carry firearms.

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